

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FILED
JUN 12 PM 2:10
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No. 8:03-cr-77-T-30TBM

GHASSAN ZAYED BALLUT,

Defendant.

REPORT AND RECOMMENDATION

THIS MATTER is before the court on Defendant's **Ex Parte Motion for Appointment and Compensation of Paralegal to Assist Counsel and Memorandum of Law** (Doc. 128). By this motion, counsel seeks an order of the court authorizing the hiring of a paralegal to assist with discovery and trial preparation.¹

Mr. Ballut and seven others are accused in a **fifty-count** indictment alleging, among other offenses, conspiracy to commit racketeering; conspiracy to murder, maim, or injure persons in foreign countries; conspiracy to provide **material support** to a designated terrorist organization (the Palestinian Islamic Jihad); and travel in or use of mail or other facility of interstate or foreign commerce with intent to commit or **promote** crimes of violence. Indexes provided by the Government reveal that the Rule 16 **discovery** in this cause is extraordinary.

¹Defendant's counsel has chosen the particular individual he wishes to hire. This person, a non-practicing attorney, would bill her services at the rate of \$25.00 per hour plus travel expenses (mileage and parking), estimated at not more than \$105.00 per week. The total annualized cost of this paralegal is estimated at a **maximum** of \$57,460.00.

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It is extraordinary not only because it is voluminous, but because much of it is in a foreign language. As an example, the discovery includes thousands of hours of intercepted communications and a volume of documents and other tangible exhibits which are entirely in Arabic or Hebrew and must be interpreted before counsel may use it effectively in these proceedings. All but a couple hundred of the intercepted communications remain classified and proceedings at this point, related to this evidence, will necessarily be in accordance with the Classified Information Procedures Act ("C.I.P.A."), 18 U.S.C. App. 3. The case involves significant and time consuming legal issues as well. The volume of discovery and legal issues are such that some counsel have suggested a minimum of eighteen to twenty-four months is necessary to prepare for trial. The government has not disagreed and estimates the trial itself will take from six to twelve months. Mr. Ballut's counsel, who is appointed pursuant to 18 U.S.C. § 3006A and this district's CJA panel plan, practices in a small firm. Realistically, much, if not most, of the intercepted communications will be of no evidentiary value to either the Government or the defense, although this cannot be determined without review of the conversations. Given the nature of these proceedings and the expected duration of the case, Defendant's counsel would bear a considerable hardship should he not be allowed to obtain the services of an experienced paralegal to aid in reviewing and organizing the voluminous discovery in this case.

At present, two other of the defendants are also represented by CJA counsel. These attorneys join the request to appoint a paralegal. As the undersigned has discussed the use of this paralegal with counsel, she would assist all three defendants in the review and organization of the discovery. Given the agreement of all counsel to conduct unified and

cooperative discovery, the services of the paralegal working for all CJA counsel will not present any conflict of interest.² The proposed paralegal has also agreed to undergo the necessary background/security investigation required by the C.I.P.A.

The provisions of section 3006A provide for the appropriation of funds for the hiring of “investigative, expert, or other services necessary for adequate representation . . .” 18 U.S.C. § 3006A(e); U.S. v. Rinchack, 820 F.2d 1557, 1563 (11th Cir. 1987). Here, none of the defendants have evidenced the financial ability to obtain such services on their own. I find a clear need for the services of such a paralegal to assist CJA counsel in this case. While the costs of such a paralegal are not insignificant, over the long course of trial preparation in this case a considerable savings will be realized if the work is structured so that preliminary review is conducted by the paralegal rather than each separate CJA counsel. The individual proposed for the position is highly qualified, her proposed hourly rate of \$25.00 is reasonable and indeed, at the low end of the usual and customary rate paid paralegals in this market for similar work on civil cases. Her costs will be governed by statute or regulation.

Accordingly, it is recommended that Defendant’s **Ex Parte Motion for Appointment and Compensation of Paralegal to Assist Counsel and Memorandum of Law** (Doc. 128) be GRANTED, and that the District Judge certify the appointment of a paralegal to assist all CJA counsel as set forth above, as well as payment of the reasonable and necessary fees and costs of such paralegal at the proposed rate on an interim payment basis

²These counsel, along with the Federal Public Defender, have agreed to conduct discovery in a unified and collective fashion. To this end, the FPD is seeking funds to hire the necessary personnel to interpret and transcribe the discovery. It will employ at least one paralegal or clerk of its own to assist with processing and scanning the documentary discovery. At present, scanning itself is a near full-time job.

similar to that proposed by counsel and that these matters **then** be forwarded to the Chief Judge of the Eleventh Circuit Court of Appeals or his **designate** for further consideration.

Respectfully submitted on this
12th day of June 2003.



THOMAS B. McCOUN III
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

Failure to file written objections to the proposed **findings** and recommendations contained in this report within ten days from the date of its **service** shall bar an aggrieved party from attacking the factual findings on appeal and a *de novo* **determination** by a district judge.

28 U.S.C. § 636(b)(1); M.D. Fla. R. 6.02.

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